

SENATE BILL REPORT

SB 6518

As Reported By Senate Committee On:
Transportation, February 6, 1996

Title: An act relating to completing a cross-state trail system by changing management and control of property and establishing a franchise for rail line rights of way.

Brief Description: Providing for a process to complete a cross-state trail system.

Sponsors: Senators Fraser, Owen, Deccio, Schow, Thibaudeau, Moyer, Heavey, McAuliffe and Drew; by request of Governor Lowry.

Brief History:

Committee Activity: Transportation: 1/17/96, 1/31/96, 2/6/96 [DPS, DNP].

SENATE COMMITTEE ON TRANSPORTATION

Majority Report: That Substitute Senate Bill No. 6518 be substituted therefor, and the substitute bill do pass.

Signed by Senators Owen, Chair; Heavey, Vice Chair; Goings, Oke, Prentice, Rasmussen, Schow, Sellar, Thibaudeau and Wood.

Minority Report: Do not pass.

Signed by Senators Morton and Prince.

Staff: Jeff Doyle (786-7322)

Background: In 1980, the Milwaukee Road (railroad) declared bankruptcy and sold some of its properties and salvaged its track. The old Milwaukee Road had operated rail service in Washington since 1909, including a portion of line extending from the Washington/Idaho border at Tekoa, across the state and over the Columbia River. During bankruptcy proceedings, the railroad offered to sell the state its right-of-way in eastern Washington.

In 1981, the Legislature appropriated \$3.5 million from the outdoor recreation account (general fund) to purchase the right-of-way. In 1982, the Department of Natural Resources (DNR) acquired 213 miles of right-of-way for about \$2.2 million. The acquired corridor consists of two main segments: (1) land running from Easton across the Columbia River to Royal City Junction (89 miles); and (2) land running from Warden easterly to the Idaho line at Tekoa (124 miles). There is a 35 mile segment running from Royal City Junction to Warden that was not purchased by DNR. This segment is currently owned and operated as a rail line, with the WCRC providing freight rail service.

Almost immediately after the purchase of the old Milwaukee Road corridor, questions arose about the permissible uses of the land. Since the land was not acquired under the federal rail-banking statute (this federal law was not enacted until 1983, after DNR's purchase), there were no guarantees that the land could be converted to rail use. An unofficial

memorandum from an Assistant Attorney General opined that further legislative action would be required in order to return the Milwaukee Road corridor to use as a rail line. At about the same time, DNR conducted a study to determine the most appropriate use of the land. The study concluded that the corridor should be maintained as a recreational trail.

In 1985, rights-of-way west of the Columbia River were transferred to State Parks. The remaining rights-of-way east of the Columbia River remained under the management and control of DNR.

To date, the ownership of the land formerly comprising the old Milwaukee Road is fractured, with three different state agencies owning portions, the Washington Central Railroad Company owning a segment, and private landowners owning parcels. Intended to be used as a cross-state recreational trail, these gaps in the corridor, along with vandalism of critical train trestles needed for passage, illegal barricades, legal challenges by adjacent property owners and six month trail closures, has prevented the trail from being utilized in a cross-state fashion. The heaviest usage of the trail occurs on the western half, which constitutes Iron Horse State Park.

In 1993, the United States Army revealed plans to condemn a segment of the corridor from Kittitas to the Columbia River to expand the Yakima Firing Center. This reduces the remaining trail by another 18 miles.

In 1995, the Burlington-Northern Santa Fe (BNSF) railroad announced its plan to reinstitute rail service over the Stampede Pass line. Reopening Stampede Pass became feasible due to the growing demand for freight rail transportation. Other than Stampede Pass, there are only two train routes across the Cascade Mountains: BNSF's Stevens Pass route in the northern part of the state, and the route in southwest Washington along the Columbia River gorge. Both of these routes suffer from serious capacity constraints, and expansion opportunities (double tracking, additional sidings, etc) are limited due to the geography in these areas.

With intermodal (containerized) freight at Puget Sound ports projected to double by the year 2015, the importance of creating additional capacity on the state's freight rail system is magnified. If BNSF reopens Stampede Pass rail line as expected, additional freight trains will be routed through Yakima and down to the Pasco rail yard, which is already a congestion point. Delays caused by routing intermodal trains through the Yakima valley could jeopardize the Puget Sound ports' attractiveness as a major destination for Asian and other pacific shipping companies and importers. In 1994, the Freight Rail Policy Advisory Committee, consisting of public and private entities with an interest in improving freight transportation, recommended that the old Milwaukee Road corridor's potential for relieving this congestion be explored. During the 1995 legislative interim, the Legislative Transportation Committee convened a Freight Rail and Freight Mobility Task Force to examine these and other issues. After public meetings in Olympia, Ellensburg and Spokane, the task force recommended reopening the Stampede Pass line and reinstating rail service over the portion of the old Milwaukee railroad running from Ellensburg to Lind.

Summary of Substitute Bill: A new cross-state trail system is established. The state-owned segments of the old Milwaukee Road corridor stretching from Ellensburg to Lind are

consolidated into a single owner, DOT. DOT is directed to negotiate a franchise agreement with a rail carrier for the provision of rail service over the Ellensburg to Lind corridor.

In negotiating the franchise agreement, DOT must obtain franchise fees sufficient to pay for and maintain a new cross-state trail. This portion of franchise fees is deposited into a new cross-state trail account, and may be used solely to fund the new trail. Any residual amounts remaining after payment of administrative fees and trail mitigation fees are deposited in the essential rail assistance account.

In the franchise agreement, the parties are directed to address access issues, including the possible allowance of access to the rail corridor by competing rail carriers.

Any franchise agreement entered into must be approved by the LTC, and Parks must approve of any provisions in the agreement affecting the cross-state trail or the operations of the Parks and Recreation Commission.

DOT may charge an administrative fee for its costs and services.

If no agreement is reached, ownership of the corridors is not consolidated. If no agreement has been reached by December 1, 1998, a status report must be made to the Legislature. If no agreement is reached by July 1, 1999, the legislation expires.

Substitute Bill Compared to Original Bill: The Department of Transportation replaces the Department of Natural Resources as the owner, manager, and franchise negotiator in the corridor.

DOT must consult with both Parks and the LTC throughout franchise negotiations. Parks must approve any provisions of the franchise agreement that potentially affect the cross-state trail or operations of the Parks Commission.

DOT must deposit franchise fee revenues into the cross-state trail account sufficient to: (1) replace all portions of land converted to rail use; (2) acquire additional properties ("missing links") necessary to complete the cross-state trail; and (3) provide maintenance on the trail over the entire term of the franchise agreement.

DOT, rather than DNR, may retain an administrative fee to cover actual costs.

A severability clause is added.

Appropriation: None.

Fiscal Note: Requested on January 22, 1996.

Effective Date: The bill takes effect on July 1, 1996.

Testimony For: Reinstating rail service over the Milwaukee Road corridor is a critical piece in improving rail service in Washington, and is intertwined with the expected reopening of rail service over Stampede Pass by BNSF.

The original bill makes no provision to compensate Parks for the trail that would be taken and converted to rail use.

Testimony Against: The recreational trail users are willing to give up the connecting piece in the cross-state trail, but only with assurances that a new replacement trail will be sited and funded.

DOT ought to be charged with the responsibility for managing the corridor. Revenues from the franchise fees ought to go back into improving freight service.

Testified: Senator Fraser, prime sponsor; Senator Deccio; Senator Rasmussen; Ralph Munro, Secretary of State; Bill Daley, Office of the Governor (pro); Alan Harger, WSDOT (pro); Russ Cahill, Parks and Recreation (pro); Pat Jones, WA Public Ports Assn. (pro); Paul Chilcote, Port of Tacoma (pro); Craig Hautamaki, Port of Seattle (pro); Pati Otley, Burlington Northern Santa Fe (pro); Rich Wagner, Backcountry Horsemen of WA (pro); Jim Murphy, Backcountry Horsemen of WA (pro); Eddie Armstrong, WA State Horse Council (pro); Lloyd Flem, WA Assn. of Rail Passengers; Richard Welsh, National Assn. of Reversionary Property Owners (con); Steve Gano, WA Central Railroad; Philip Meany, WA Bicycle Ad. Comm (pro); Susie Stephens, WA Bicycle Federation (pro).